IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2006

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM

C.R.P.NPD. No.1263 of 2006
and
M.P.No.2 of 2006

-o-

Minor R.Prabhu
Rep.by his next friend
natural uncle and guardian
S.Sivanandam

(Cause Title accepted vide order of Court dt.9.8.2006 made in M.P.1 of 2006 in CMP SR.No.68588 of 2006) ... Petitioner/Defendant 3

Versus

1. M.Subramaniam
2. D.Suresh Kumar
3. P.Cheralathan
4. R.Marudhachalam
5. K.Thenmozhi
6. Palaniammal
7. Sakthivel
8. Usha Rani
9. R.Gandhimathi ... Respondents/Plaintiffs 2 to 6, 2nd Defendant

Civil Revision Petition filed under Section 115 CPC against the order of the II Additional Subordinate Judge, Coimbatore dated 17.07.2006 made in E.P.No.203 of 2002 in O.S.No.796 of 1992.

For Petitioner : Mr. S.Parthasarathy,S.C.
For Mr.J.Ramakrishnan

For Respondents : Mr.T.S.Sivgnanam

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ORDER

The revision is directed against the order of the learned II Additional Subordinate Judge, dated 17.07.2006 made in E.P.No.203 of 2002 in O.S.No.796 of 1992 in and by which the learned Judge after over ruling the objection raised by the respondents therein allowed Execution Petition and ordered delivery by 25.08.2006.

2. Learned Senior Counsel appearing for the petitioner submits that since at the time of compromise decree dated 31.03.1997, the petitioner herein was a minor and the compromise arrived at and accepted by the learned First Additional Subordinate Judge, Coimbatore is not binding on him. It is also stated that the petitioner herein has also filed separate suit questioning the compromise decree dated 31.03.1997.

3. In the light of the said contention, I verified the compromise decree in O.S.No.796 of 1992 on the file of the First Additional Subordinate Judge, Coimbatore dated 31.03.1997 available at page Nos. 1 to 4 of the typed set, which amply shows that the petitioner herein was shown as third defendant and he was represented by his mother viz., R.Gandhimathi as guardian.

4. In such circumstances, it cannot be claimed that the interest of the minor was not taken note of while arriving a compromise decree. Further, as pointed out by the Court below, the petitioner was not in existence, when his father executed a sale agreement with the decree holders. I am in agreement with the reasoning of the learned Subordinate Judge and there is no error or infirmity for interference. This Revision fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

gms

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

The II Additional Subordinate Judge,
Coimbatore.

+ ONE CC TO MR. J. RAMAKRISHNAN, ADVOCATE SR NO. 38383
+ ONE CC TO MR. T.S. SIVAGNANAM, ADVOCATE SR NO. 38042

NM(01.09.2006)

C.R.P.NPD. No.1263 of 2006

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